
STATUTORY INSTRUMENTS

2023 No. 428

The Non-Domestic Alternative Fuel Payment Application Scheme Pass-through Requirement Regulations 2023

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Non-Domestic Alternative Fuel Payment Application Scheme Pass-through Requirement Regulations 2023 and come into force on 18th April 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“end user” means an end user as defined in section 19(3) of the Energy Prices Act 2022 other than an excluded end user;

“energy products” means heating or hot water (or both) provided through a heat network;

“excluded end user” means a person to whom a relevant intermediary located in Northern Ireland supplies or makes available energy⁽¹⁾, energy products (or both) at premises located outside England, Wales, Scotland or Northern Ireland;

“excluded person” means a person engaged in the provision of either or both of—

(a) accommodation within the meaning of standard industrial classification divisions 55.1, 55.2, 55.3 (except relevant accommodation providers) and 55.9 (except persons providing student residences, school dormitories, workers hostels and rooming and boarding houses),

(b) energy or energy products (or both) to such accommodation;

“heat network” means a network that, by distributing a liquid or a gas, enables the transfer of thermal energy for the purpose of supplying heating or hot water to a building or persons in that building;

“pass-through” means the act of a relevant intermediary of passing through all or part of a scheme benefit to an end user;

“pass-through amount” means an amount, being all or part of a scheme benefit, which is passed through to an end user by a relevant intermediary under these Regulations;

“relevant accommodation providers” means—

(1) Defined in section 28(4) of the Energy Prices Act 2022.

- (a) in England, Wales or Scotland, persons providing mobile homes on protected sites as defined in the Mobile Homes Act 1983⁽²⁾, or
- (b) in Northern Ireland, persons providing caravans on protected sites defined in the Caravans Act (Northern Ireland) 2011⁽³⁾;

“relevant intermediary” means a person to whom a scheme benefit has been provided in circumstances in which there is one or more end user other than the relevant intermediary except where that person is an excluded person, and for the purpose of regulation 3, “relevant intermediary” includes a person who will have entitlement to have a scheme benefit provided to it but to whom it has not yet been so provided;

“scheme agreement” means the contract that arises between the Secretary of State and a relevant intermediary, when the relevant intermediary agrees to be bound by the scheme terms, which incorporates the scheme terms;

“scheme benefit” means—

- (a) a payment provided by the Secretary of State to a relevant intermediary in accordance with a scheme agreement, including (except where the circumstances in regulation 4(1) (a) apply) such a scheme benefit provided before these Regulations came into force, or
- (b) where the end user is also a relevant intermediary, a pass-through made under these Regulations where the amount of the scheme benefit is the pass-through amount provided to the end user concerned (as intermediary),

and the amount of the scheme benefit may be an amount in pounds sterling or in pounds sterling per kWh (as appropriate) of energy or energy products (or both);

“scheme terms” means the document entitled “Non-domestic Alternative Fuel Payments in Great Britain and Northern Ireland: Terms and Conditions” dated 8 March 2023 and published by the Secretary of State, or that document as amended on 6 April 2023 and published by the Secretary of State⁽⁴⁾;

“standard industrial classification” means the Office for National Statistics’ “UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007)”⁽⁵⁾;

“usage” means the quantity of—

- (a) energy in respect of which a scheme benefit has been provided, or
- (b) energy products produced using energy in respect of which a scheme benefit has been provided,

made available by a relevant intermediary to an end user.

(2) 1983 c. 34. Section 5 was amended by sections 318 and 321(1) of, and Schedule 16 to the Housing and Regeneration Act 2008 (c. 17).

(3) 2011 c. 12 (N.I.).

(4) A hard copy of these documents can be obtained from the Department for Energy Security and Net Zero, 1 Victoria Street, London, SW1H 0ET. For an electronic copy, see: <https://www.gov.uk/government/publications/non-domestic-alternative-fuel-payment-applications-scheme-documents>.

(5) Published by the Office of National Statistics. For information on how to obtain a hard copy, contact the Office for National Statistics, Classifications and Harmonisation Unit, Government Buildings, Cardiff Road, Newport, South Wales, NP10 8XG. For an electronic copy, see <https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities/uksic2007>.